

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Other Civil  
(Consumer Protection)

State of Minnesota, by its Attorney  
General, Mike Hatch and the  
Minnesota Board of Veterinary  
Medicine,

Court File No. 62-C7-02-003739  
Judge John T. Finley

Plaintiffs,

**STIPULATION TO  
ENTRY OF ORDER FOR  
PERMANENT INJUNCTION**

vs.

Eric H. Weisman, D.C.,

Defendant.

WHEREAS, on April 17, 2002, the State of Minnesota, by its Minnesota Board of Veterinary Medicine, and by its Attorney General, Mike Hatch, filed an action under the Minnesota Consumer Fraud Act, the Uniform Deceptive Trade Practices Act, the Minnesota Prevention of Consumer Fraud Act, and under Minnesota Statutes chapter 156 and Minn. Stat. § 333.01, subdivision 1, against Eric H. Weisman ("Defendant");

WHEREAS, on September 9, 2002, an Order for Temporary Injunction in this matter was filed in Ramsey County District Court;


WHEREAS, the parties desire to settle the issue of a permanent injunction through this Stipulation to Entry of Order for Permanent Injunction;

THEREFORE, the parties hereby agree and stipulate as follows:


**STIPULATION**

1. The proposed Order for Permanent Injunction attached as Exhibit A to this Stipulation may be entered in resolution of this matter.

2. The Plaintiffs may apply, without notice to Defendant, to the District Court for approval of this Stipulation and entry of the Order for Permanent Injunction. Service of an executed Order for Permanent Injunction entered pursuant to this Stipulation may be made by mailing a copy by U.S. Mail to: Eric H. Weisman, 287 East 6th Street, Dept. 5, St. Paul, MN 55101, Defendant.

Dated: 3/12/03  
ERIC H. WEISMAN

MIKE HATCH  
Attorney General  
State of Minnesota

Dated: 3/12/03  
STEVEN M. GUNN  
Assistant Attorney General  
Manager, Health Licensing Division  
Atty. Reg. No. 38647

445 Minnesota Street, #1400  
St. Paul, Minnesota 55101-2131  
(651) 296-8954 (Voice)  
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ATTORNEYS FOR STATE OF MINNESOTA,  
BY ITS ATTORNEY GENERAL,  
MIKE HATCH AND THE MINNESOTA  
BOARD OF VETERINARY MEDICINE

AG: #755794-v1

STATE OF MINNESOTA

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Plaintiffs,

**ORDER FOR  
PERMANENT INJUNCTION**

vs.

Eric H. Weisman, D.C.,

Defendant.

Upon the accompanying Stipulation to Entry of Order For Permanent Injunction of the parties and upon all files, records and proceedings herein, this Court directs entry of Order for Permanent Injunction in this matter as follows:

IT IS HEREBY ORDERED that Defendant Eric H. Weisman, and his employees, agents, successors, assignees, affiliates, merged or acquired predecessors, parent or controlling entities, subsidiaries, and all other persons acting in concert or participation with them are permanently enjoined from the following:

1. Engaging in any conduct that constitutes the practice of veterinary medicine, as defined in Minn. Stat. § 156.12, specifically including, but not limited to:

a. Directly or indirectly diagnosing or offering to diagnose any animal disease, deformity, defect, injury, or other physical or mental conditions.



b. Directly or indirectly providing or offering to provide any procedure, product, plan or service purporting to be for the treatment, correction or relief of any animal disease, deformity, defect, injury, or other physical or mental conditions, including, but not limited to, chiropractic or other physiotherapeutic procedures, enemas, the "Evolution Diet Plan," or any treatment procedure, plan or service using or recommending the use of vitamins, botanicals, biologics, protein isolates, herbs, compounds, nutritional supplements or any other substances, with the exception of para. 2a and 2e.

c. Directly or indirectly providing or offering to provide any procedure, product, plan or service purporting to be for the prevention of any animal disease, deformity, defect, injury, or other physical or mental conditions.

d. Directly or indirectly providing or offering to provide any procedure, product, plan or service purporting to enhance any animal's health or to increase any animal's life expectancy, including, but not limited to, the "Evolution Diet Plan."

e. Directly or indirectly offering, advertising, selling or otherwise providing any verbal or written plan, program or procedure purporting to be for the treatment, correction, relief or prevention of any animal disease, deformity, defect, injury, or other physical or mental conditions, including, but not limited to, the "Evolution Diet Plan," "organ regeneration" programs or procedures, "metabolic medicine," "emergency" procedures, "metabolic therapy," or "biologic treatment programs."

f. Directly or indirectly offering or providing any consultation, whether in person, by telephone or by other electronic connection, that pertains to the treatment, correction, relief or prevention of any animal disease, deformity, defect, injury, or other physical or mental conditions.

g. Directly or indirectly rendering any advice, recommendations or suggestions regarding the diagnosis, treatment, correction, relief or prevention of any animal disease, deformity, defect, injury, or other physical or mental conditions, including any advice, recommendations or suggestions about the use of chiropractic or other physiotherapeutic procedures, enemas, vitamins, botanicals, biologics, protein isolates, herbs, compounds, nutritional supplements or any other substances.

h. Directly or indirectly reviewing or offering to review any veterinary medical records of any animal owned by another for any fee or other consideration or for the purpose of rendering any advice, recommendations or suggestions regarding the diagnosis, treatment, correction, relief or prevention of any animal disease, deformity, defect, injury, or other physical or mental conditions, with the exception of para. 2a and 2e.

i. Directly or indirectly selling, applying, offering to sell or offering to apply any drug, biologic preparation, vitamin, botanical, protein isolate, herb, compound, or other substance or agent for the treatment, vaccination or testing of any animal belonging to another or for the treatment, correction, relief or prevention of any animal disease, deformity, defect, injury, or other physical or mental conditions.

j. Directly or indirectly making any claim that Defendant's pet food or other products for animals will treat, prevent, or otherwise affect a disease or condition, or affect the structure or function of the body in a manner distinct from normal nutritive value unless Defendant has first obtained written authorization from the Food and Drug Administration to make such claim.

k. Directly or indirectly selling or offering to sell any drug, biologic preparation, vitamin, botanical, protein isolate, herb, compound, or other substance or agent that

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is "human grade" or otherwise for humans on the Evolution Diet website, [www.petfoodshop.com](http://www.petfoodshop.com), or in connection with the offer or sale of any pet food or any other product for animals.

1. Obtaining or attempting to obtain full or part ownership of any animal or participating in the transfer of ownership of an animal to avoid application of or to circumvent this Order or Minn. Stat. § 156.12.

2. Engaging in any advertising or conduct that is false or misleading or that in any other way violates Minn. Stat. §§ 325F.67, 325D.44 and 325F.69, specifically including, but not limited to:

a. Directly or indirectly, in any advertisement or by any other means, representing or implying that he provides, recommends or is qualified or authorized to provide or recommend any procedure, product, plan or service for the treatment, correction, relief or prevention of any animal disease, deformity, defect, injury, or other physical or mental conditions, provided that Defendant is not prohibited from verbally explaining to individuals what he has done with his rescued animals in similar circumstances, so long as it is stated clearly and contemporaneously that his statements are not intended to be advice, suggestions or recommendations on the treatment of animals nor to imply that he is a veterinarian or medically qualified to give advice on animal health.

b. Directly or indirectly providing or representing, implying or holding himself out as qualified or authorized to provide "treatment programs," including "emergency services," to humans for serious or life-threatening conditions, including, but not limited to, cancer, heart disease, high blood pressure, aortic aneurysm, kidney failure, liver dysfunction, dementia, arthritis, diabetes and stroke.

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c. Directly or indirectly providing or offering to provide any health care to any human unless Defendant is licensed as a chiropractor in the State of Minnesota and such health care is authorized by the Minnesota Chiropractic Practice Act, Minn. Stat. §§ 148.01 - 148.105.

d. Directly or indirectly representing or implying, in connection with the sale of pet food or any other product or service, that he or any business in which he has an ownership interest has conducted "research," including, but not limited to, "clinical trials," "human studies," "case studies" or "literary research," that supports claims about the efficacy of the pet food, product or service.

e. Directly or indirectly representing or implying, in connection with the offer or sale of pet food or any other product or service, that any other person has conducted "research," including, but not limited to, "clinical trials," "human studies," "case studies" or "literary research," that supports claims about the efficacy of the pet food, product or service unless that person has first conducted bona fide scientific research on the specific product and the specific species for which it is offered or sold, unless the results of such research actually support the claims about efficacy and unless the results of such research have first been published in bona fide peer-reviewed scientific literature.

f. Directly or indirectly making claims that Defendant's products, procedures or services have "good long-term results" or similar claims.

g. Directly or indirectly representing or implying that that any animal's life expectancy will improve through the use of Defendant's pet food or other products.

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h. Directly or indirectly disseminating any advertisements representing or implying that animals are living healthier and longer through use of Defendant's pet food or other products.

i. Directly or indirectly disseminating any advertisements representing or implying that Defendant's products, procedures or services "work," are "proven to work" or can "cure" any diseases or conditions or from making any similar claims.

j. Directly or indirectly making any claims about the endorsement or approval of Defendant's pet food or other products by "P.H.E.A. People for Health, Environment and Animals" or from using, in any way, any written article, documentary or other thing purporting to be written, produced or created by "P.H.E.A. People for Health, Environment and Animals" or any person affiliated with this entity, except that previously produced and distributed videos that have already reached consumers as of the date of this order shall not be in violation.

k. Directly or indirectly using any endorsement or approval of Defendant's pet food or other products by any entity if Defendant has participated in the founding or operation of such entity.

l. Directly or indirectly using any endorsement or approval of Defendant's pet food or other products by any person or any entity other than one described in paragraph 2.j. or 2.k. above unless Defendant has first obtained written permission from the person or entity, unless any claims made by Defendant with regard to the endorsement or approval are limited to those specifically contained in the person's or entity's written permission and unless Defendant, in connection with any use of the endorsement or approval, discloses the specific name and address of the person or entity making the endorsement or approval.

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m. Directly or indirectly using any assumed name that creates a likelihood of confusion or misunderstanding about the nature, size or location of Defendant's business, or the ingredients or properties of Defendant's pet food or other products, including, but not limited to, the assumed name "Weisman Institute of Nutrition" or any assumed name that contains the term "superfortified," "worldwide" or any similar term.

3. Using in any advertisement, on any package, label, sign, letterhead, check, business card, application for licensure or in any way, any assumed name unless Defendant has first complied with all requirements set forth in Minn. Stat. §§ 333.01 and 333.02 applicable to commercial assumed names, including the filing and publishing requirements.

4. Using any assumed name unless he or an active corporation owned by him is registered with the Minnesota Secretary of State as the nameholder.

IT IS FURTHER ORDERED that nothing in this Order shall preclude Defendant from selling or advertising for sale nutritional supplements for humans, except that Defendant is enjoined from selling or advertising for sale nutritional supplements for humans, or any other such products for humans, on his Evolution Diet website *petfoodshop.com*, or on any other website Defendant may operate for the sale or advertisement of pet food, or in connection with any other advertisement for Defendant's pet food. Defendant is further enjoined from selling or advertising for sale nutritional supplements for humans, or any other such products for humans, that do not meet all applicable federal and state laws and regulations for efficacy, safety and labeling. Defendant is further enjoined from making advertising claims regarding such products that are untruthful, misleading or not substantiated by competent and reliable scientific evidence or that in any manner fail to meet all applicable federal and state truth-in-advertising laws.

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IT IS FURTHER ORDERED that Defendant shall promptly provide a copy of this Order to each of his current or future employees or agents and to each current or future employee or agent of any pet food company owned, in whole or in part, or operated by him.

IT IS FURTHER ORDERED that Defendant shall pay to the State of Minnesota a civil penalty in the amount of \$1,000. Defendant shall pay the \$1,000 in the form of a cashier's check made payable to State of Minnesota and delivered to the Office of the Attorney General along with the executed copy of this Stipulation. The civil penalty is in addition to any civil penalty imposed in the license disciplinary action filed on September 10, 2001, by the Minnesota Board of Chiropractic Examiners Complaint Panel against Eric Weisman.

LET FINAL JUDGMENT BE ENTERED ACCORDINGLY.

Date:

3/12/03

  
HONORABLE JOHN T. FINLEY

Judge of Ramsey County District Court

AG: #755783-v1

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